

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

COTTRELL L. BROADNAX,

Plaintiff,

vs.

FERNANDEZ, et al.,

Defendants.

1:22-cv-01223-GSA-PC

**ORDER FOR CLERK TO RANDOMLY
ASSIGN A UNITED STATES DISTRICT
JUDGE TO THIS CASE**

AND

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTIONS TO PROCEED IN FORMA
PAUPERIS BE DENIED
(ECF Nos. 6, 14.)**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

I. FINDINGS

Cottrell L. Broadnax ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On July 28, 2022, this case was commenced in the United States District Court for the Northern District of California. (ECF No. 1.) The case was transferred to this Court on September 23, 2022. (ECF No. 9.)

1 On August 31, 2022 and October 24, 2022, Plaintiff filed motions to proceed *in forma*
2 *pauperis* pursuant to 28 U.S.C. § 1915. (ECF Nos. 6, 14.)

3 In his October 24, 2022 motion to proceed *in forma pauperis*, Plaintiff reports that he
4 received \$1,200.00 in stimulus funds on February 16, 2022. (ECF No. 14 at 1.) Plaintiff's prison
5 trust account statement shows that on October 10, 2022, he had a balance of \$945.66 in the
6 account.¹ (ECF No. 16.) Under these facts, the court finds that Plaintiff can afford the \$402.00
7 filing fee for this action. Therefore, Plaintiff's motions to proceed *in forma pauperis* should be
8 denied, and Plaintiff should be required to pay the filing fee of \$402.00 for this action in full.

9 **II. RECOMMENDATIONS AND CONCLUSION**

10 Accordingly, **IT IS HEREBY ORDERED** that the Clerk of Court shall randomly assign
11 a United States District Judge to this case;

12 and

13 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that:

- 14 1. Plaintiff's motions to proceed *in forma pauperis*, filed on August 31, 2022 and
15 October 24, 2022, be DENIED; and
16 2. Plaintiff be required to pay the \$402.00 filing fee for this action in full.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
19 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file
20 written objections with the court. Such a document should be captioned "Objections to
21 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
22

23 ¹ The Court notes that some, if not all, of the funds in Plaintiff's account may be from
24 "stimulus checks." (ECF No. 14 at 1.). However, Plaintiff has not cited to any law, and the Court is not
25 aware of any, preventing "stimulus checks" from being included when determining whether a plaintiff
26 can afford to pay the filing fee. Additionally, other courts in this district have included the funds when
27 making the determination. See, e.g., Hammler v. Zydus Pharmacy, 2021 WL 3048380, at *1-2 (E.D. Cal.
28 July 20, 2021) (considering the plaintiff's "economic impact payments" when determining that the
plaintiff was "financially able to pay the filing fee"); Corral v. California Highway Patrol, 2021 WL
2268877, at *1 (E.D. Cal. June 3, 2021) (findings and recommendations pending before district judge)
(including the plaintiff's "pandemic stimulus payments" in determining that the "plaintiff has made an
inadequate showing of indigency").

1 objections within the specified time may waive the right to appeal the District Court's order.
2 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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4 IT IS SO ORDERED.

5 Dated: October 28, 2022

/s/ Gary S. Austin
6 UNITED STATES MAGISTRATE JUDGE
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